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## THE TEST OF EFFECTIVE CHILD-LABOR LEGISLATION

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Effective legislation may be tested by either of two standards: the ideal or the practical. It is not ideally effective unless it adequately protects childhood from the various forces which either blindly or selfishly prey upon its birthrights. The proprietor of a large glass-blowing establishment recently stated with frankness the adaptability of children to this business and naively added: "The work takes a little fellow that's nimble and can handle himself." As long as we permit this industry or any other to take "the little fellow" for its own interest, regardless of his higher value to himself and to society, we are far from applying this standard of effectiveness. Holding this as the ultimate aim we must approach it practically.

From this second viewpoint legislation is effective if it carries within itself the possibility of enforcement, however low or high its standard may be. It is sometimes supposed that low standards as to age, physical fitness, educational efficiency, and laxness as to the number of hours children may be employed, are standards that can be maintained without difficulty. Investigation proves, however, that the tendency to transgress is stronger against low than against high standards. In Rhode Island, where a twelve year age limit is legal for work in the mills, and school children of twelve may be granted a certificate to labor upon the recommendation of the overseer of the poor, it would seem that a standard so low would invite universal obedience. On the other hand it is found that there are townships in which no effort is made to enforce even this minimum requirement, and children ten and eleven years of age are found in the mills, while of the twelve year old children only a few appear ever to have heard of such an article as an age or schooling certi-

cate.<sup>1</sup> In Pennsylvania, where the only educational test is of the ability to read and write simple sentences in the English language, many communities are to be found in which numbers of entirely illiterate children are employed, the intellectual standard being so low as to invite a contemptuous indifference to it by those authorized to apply its provisions.

Legislation, to be effective, must express the collective will of the people. I might call it the "composite" will of the people, for it must be neither the idealistic opinion of the reformer, nor the opinion of a self-centered commercialism. In these days of betrayed legislation it is difficult to determine whether the statute laws are really the voice of the people. If they are, and still are hopelessly inadequate for the protection of childhood it is useless to immediately attempt advanced legislation. The only remedy is to enlighten and educate public opinion to a proper appreciation of child values. But if the legislation is found to be lower than the plane of public opinion, then it must be changed in conformity with that opinion and with certain well-defined principles.

A comparison of two townships in the same state, under the same laws, showed that while in one township the law was almost entirely ignored and children were sacrificed by a combination of parental ignorance and industrial greed, in the other township both parents and employers joined with the school authorities in maintaining a standard quite above the legal requirements and, although the age limit for factories is twelve years, and the maximum age for compulsory school attendance is thirteen, with special exceptions for a lower age, the children of the community regarded fourteen years as the minimum age to leave school and enter the factory, and but few children under that age were to be found in the several large textile mills of the township.

A few of the principles to be recognized in testing legislation are the following:

I. Legislation regulating child labor must harmonize with other legislation affecting the same class in society. The aim is not just to keep the children from working, but to produce intelligent citizens. To this end we must legislate in harmony with the school laws.

<sup>1</sup> Since the above was written the law in Rhode Island has been amended, raising the age limit to thirteen, to be amended to fourteen on January 1, 1907, prohibiting the employment of children under sixteen at night, and requiring proof of age.

The school law is as much a matter of concern as a child labor law itself. It is *child* legislation we are seeking. An effective statute will then provide authority for the investigation of all children within the limits of school age. Because of loose construction the duty of the truant officer is often interpreted as limited to the investigation of truancy on the part of children already on the school roll. This leaves an enormous body of children unaccounted for. The superintendent of schools in one Rhode Island township affirms that there are in that township 1,168 children of school age of whom there is absolutely no official record and no way of accounting for them, while the Pennsylvania Child Labor Committee is responsible for the statement that "in Philadelphia alone there are, after deducting those physically unable to attend school, 16,100 children between the ages of eight and thirteen out of school," and it is not unlikely that a thorough investigation would prove similar conditions in other of our large cities. These armies of children may be in the factories, they may be on the street; they fall through between the truant officer and the factory inspector because of this lack of harmony and completeness in the laws. To be effective, legislation must take account of all the child life in the community.

Also in the educational requirement for labor the standard should agree with the school law. Because of the influx of foreign population the war is beginning to wage hotly over the English qualification. From the standpoint of American citizenship I think I am right in saying that the surest way to make a compulsory educational qualification ineffective is to substitute the words "any language" for the words "English language," as is at the present time seriously proposed in one of our Northern States.

Not only should these laws harmonize in order to be effective, but there is required the most complete harmony between local child labor committees and the educational forces, or the best legislation will fail.

II. Effective legislation will be based on industrial, rather than geographical boundaries. Where the same industries under similar conditions prevail, the difficulty of securing adequate legal protection in one state is increased if in a neighboring state a lower standard is maintained. The fact is clearly proven by a field study of the glass industry in Western Pennsylvania, Eastern Ohio and the pan-handle of West Virginia. Ohio has a fourteen year age limit for the

employment of children, Pennsylvania a thirteen year limit, West Virginia a twelve year limit. Ohio prohibits the employment of children under sixteen at night, Pennsylvania permits the employment at night of children of thirteen, while West Virginia permits children twelve years old to work at night.<sup>2</sup>

The effect of such a situation is that the manufacturer in Western Pennsylvania, when approached on the subject of the restriction of night labor for children, replies with a threat to move over into West Virginia if such a law is enacted, thus frightening legislators into inactivity, while in Eastern Ohio, along the boundary line, which is thickly dotted with glass factories, children are confessedly employed at twelve and thirteen years of age at night upon the plea that the industry cannot compete with West Virginia and Pennsylvania if the law were rigidly enforced. The unity of the entire "Pittsburg District," including Eastern Ohio, Western Pennsylvania and Northern West Virginia, in commercial and industrial interests, suggests the necessity of such legislation governing child labor as shall recognize this similarity of conditions, rather than the arbitrary division of state boundaries. The present high standard of legislation on child labor cannot be made effective or be maintained in Ohio unless West Virginia adopts a higher standard than the present, and Pennsylvania takes an advanced step toward the restriction of night labor.

III. The law must provide adequate machinery and agencies for its enforcement. The law regulating the employment of newsboys in New York City has failed through two defects to establish the purposes of those who advocated better legislation for these little street merchants. The standard is too low, permitting boys of ten years of age to earn their livelihood on the streets, because the public can hardly be expected to take a lively interest in the enforcement of a law for the protection of children nine years of age, which offers no protection to those of ten! But where the standard is higher the law still fails at the point of method of enforcement. Ununiformed school officials should be empowered to carry out the provisions of this statute and an appropriation sufficient to warrant the employment of a large force of such officers should be readily granted. The uniformed policemen, already burdened by duties

<sup>2</sup> Since the above was written the law in West Virginia has been amended, prohibiting the employment of children under fourteen during school terms.

popularly regarded as more appropriate to the strength and disposition of a quasi-military force, are hardly to be expected to arrest ten-year-old newsboys and drag them to the police station for the crime of selling newspapers under age. Even if they were so disposed, those of us who remember the days of boyhood are aware that a small urchin can detect the approach of a stalwart policeman at as great a distance as the policeman can see the boy.

In states providing that certificates of age and educational attainments may be granted by notaries public it has been found frequently true that such officials, having no interest in the matter beyond the collection of the pittance allowed for the clerical work, have reduced the law to a formality, issuing certificates to any who applied regardless of the facts, and cases are on record in which the notary was actually incompetent to determine whether the applicant was able to read and write simple sentences in the English language.

The law must also provide for sufficient tenure of office and sufficient remuneration for those appointed to enforce its provisions. It need not surprise us to find that truant officers whose duties call them to cover a territory of thirty or forty square miles, with a population of above 25,000, and who are paid a salary of \$200 a year, are not uniformly the most competent people in the community, or those to whom the sacred office of monitor to childhood should be committed.

IV. Legislation should definitely prohibit not only the employment of young children but their *permission* to work. The name of every person working on the premises, whether that person is officially employed or is simply "permitted or suffered to work," should appear on the roll of the firm or corporation. Otherwise factory inspection is a farce.

In states failing to make this definite prohibition little children, sometimes pitifully young, have been found in the mills and factories working as helpers of older members of the family. They are not technically employed, the employer has no official knowledge of their presence in his factory, they receive no wages and are not counted among the workers, but the fruits of the toil of these infants appear in the wages of the mother or sister, and their little fingers are thus early made bread winners for the family.

V. The responsibility of duties in respect to the law must be made to rest upon the strongest members of society rather than upon the weakest. Laws which would otherwise prove effective are vitiated by the failure to recognize this simple principle. The law in Pennsylvania provides that no child under sixteen can be employed unless he presents a certificate sworn to by his parent that he is thirteen years of age or over, but no proof is required from the parent to substantiate the affirmation or oath. The law thus constructed invites perjury. In many localities the parents concerned are those whose own experience is utterly devoid of knowledge of the value of an English education or an American standard of living, whose conception of the value of a child is measured by his present earning capacity. To issue an age certificate to a child, based on the unsupported oath of such a parent is to subject that parent to a temptation which falls heaviest upon the weakest and which increases in direct proportion to the parent's incapacity to withstand it.

And, finally, we shall perhaps best understand the close relation our problem bears to other of our great social problems by a consideration of some of the alleged reasons for employing young children, and which help to render legislation ineffective. The excuse most frequently met is the plea for the "poor widow" who will be left without support if her little boy and girl are taken from the factory or store. In every community she is found, and the advocates of her cause are both numerous and powerful. Men of commanding position in the community, as business men and as philanthropists, openly avow the justice of the employment of children of tender years, in labor that dwarfs the body and stifles intellectual growth, because the poor widow would suffer for bread if they were to be emancipated. The plea is a plausible one, but the facts do not justify its claim. Only a small proportion of those whose little children are employed at hard labor are "poor widows," and for these we dare believe society can better afford to make adequate and honorable provision, recognizing their service to the community in the care of their own young, rather than that the young, the only real wealth the community can boast, should be made a meat offering to the hunger of the parent. Let us forever put to shame this brazen slave-master of childhood which poses as philanthropy by showing that whatever the sacrifice, the children of our generation shall not be made the means of livelihood to any member of the community.

Let us publish the revised version of the offerings dedicated to our modern temple of industrial prosperity, and as we sit over against the treasury and see the great and the wealthy cast in their stocks and gold and machinery, let us not fail to see the poor widow who comes, misguided it may be by the industrial superstitions of her day, and casts her two little children into the roaring temple of industry. As they fall, fall beyond recovery, well may we exclaim, as did the Master at that other temple, "I tell you she has cast in more than they all, for they of their abundance have cast in, but she of her want hath cast in all that she had, even her very life!" Proper and systematic methods of relief will prevent the loss of a child's future value to society for the sake of the paltry ninety-three cents a week, the wages actually found to be paid to young children to-day in some of our prosperous northern mills.

Another excuse is that expressed by one glass manufacturer who affirms that he employs young children partly for the purpose of teaching them a trade. The establishment of public trade schools will take away this excuse and will furnish a constructive program of the largest possibilities. The best way to make legislation effective is through the children themselves. They want to go to work. They prefer the factory to the school. There is a sense of personal independence in the young child who can look upon himself as an economic factor in the life of the family. We must so develop our educational system, not through detention schools, not through penal institutions; but through the regular public channels of education, as to feed this practical instinct and cause the child to feel that the training he receives is practical, that he is really gaining that which will advance him materially faster than the same time spent in shop or factory. A little boy met at daylight a few weeks ago as he came out into the frosty morning from one of our New England factories, was asked if he preferred the factory to the school. "Sure," was his quick reply; "de school ain't no good; dey only learn you to write pictures, dat's all; dat's all dey ever learnt me!" He was earning \$1.10 a week for ten hours a day, two days in the week, and loafing the other days. He left school from the first grade and was entirely illiterate. I do not mean to suggest that his criticism was just, for he was too limited in experience to be competent for expert judgment, but confessedly to "learn" a boy "to write pictures" when he had passed to his thirteenth year and is large enough to

have an economic value in a mill, leaves something to be desired. Nor do I mean that we should limit our schools to technical training, but that we should provide at least enough to establish the connection in the child's mind between education and industrial productivity.

This summary of the varied causes of the ineffectiveness of legislation, gathered from the experience of a field study of the problem, is intended only to point the path to that ideal standard of legislation suggested at the first—an expression of the collective will of the people so high in principle and so perfectly adapted to realize itself in fact that it shall accomplish the *adequate* protection of *all* children.